IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 1225 OF 2003

RELIANCE INDUSTRIES LIMITED)
having its registered office)
222, 3rd Floor, Maker Chambers IV,)
Nariman Point,MUMBAI 400 021.).. PETITIONERS

vs

STATE OF MAHARASHTRA)
Through Inspector-in-Charge)
Nhava Sheva Police Station)
District Raigad.)

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Inspector-in-Charge)
Uran Police Station,)
District Raigad.).. RESPONDENTS

Mr. Ameet Desai with Prakaksh Naik i/b A. S. Dayal & Associates for petitioners.

Ms. P.H. Kantharia, APP

CORAM:-SMT. RANJANA DESAI &

A. S. OKA, JJ.

DATED:-30-11-2004 &

01-12-2004

ORAL JUDGMENT:-(Smt. Ranjana Desai, J.)

This petition filed under Article 226 of the Constitution of India seeks quashing of F.I.R. No. 102 OF 2003 and F.I.R. No. 2-23/03 dated 5th August, 2003, pending on the file of Nhava Shiva Police Station and Uran Police Station, District Raigad. It is alleged that the petitioner has contravened Sections 3, 7, 8, 9 and 10 of the Essential Commodities Act, 1955 ("the said Act") read with the Maharashtra Solvent, Raffinate Slop (Acquisition, Sale, Storage and Prevention of Use in Automobiles) Order 2000 as amended.

2. Before we touch the merits of the case it is necessary to have a look at

the relevant provisions of law. Section 3 of the said Act enables the Central Government to issue orders providing for regulating or prohibiting the production, supply and distribution of any essential commodity and trade and commerce therein. Section 7 of the said Act provides for penalties for contravention of any order made under Section 3. Section 8 of the said Act states that any person who attempts to contravene or abates contravention of any order made under Section 3 shall be deemed to have contravened that order. Section 9 of the said Act provides for punishment for making a false statement and Section 10 thereof speaks about offences by company. In pursuance of Section 3 of the said Act, the Central Government issued the Solvent Raffinate & Slop (Acquisition, Sale, Storage and Prevention of Use in Automobiles) Order 2000 ("the Central Order" for short). Clause 3 of the Central Order provides that no person shall either acquire, store or sell solvent included in the schedule thereto without a licence issued by the State Government or District Magistrate or any other officer authorised by the Central or State Government. Pursuant to sub-clause 1 of clause 3 of the Central Order, the Government of Maharashtra by a notification published in the Official Gazette issued the Maharashtra Solvent, Raffinate & Slop (Acquisition, Sale, Storage and Prevention of Use in Automobiles) Licensing (Amendment) Order 2002 (the licensing order for short). It is necessary to reproduce some of the clauses of the licensing order.

Clause 3 so far as it is relevant reads as under:

"3. Prohibition against carrying on business of acquiring, sale, storage or use of Solvent, Raffinate and Slop without licence.

(i) No person shall either acquire, store, sale & use Solvent, Raffinate and Slop except under and in accordance with the terms and conditions of a licence issued in this behalf by the Licensing Authority."

Clause 4 reads as under:

"4. Application for licence. - An application for grant of a licence under this Order shall be made to the licensing authority in Form I. Every such application shall be accompanied a fee of Rs.1000/- (One thousand Only).

Provided that:

(a) Every person desiring to acquire, sale, store and use Solvent, Raffinate & Slop after the commencement of this Order, shall apply for and obtain a licence under this Order to the Licensing Authority:

(b) any person who immediately, before the commencement of this Order, doing business of acquiring, selling, storing and using Solvent, Raffinate and Slop, shall apply for the issue of a licence under this Order

within a period of ten days from the date of commencement of this Order.

Clause 5 provides for deposit of cash, by a person applying for licence before issuance of licence, as security for the due performance of the terms and condition of the licence.

Clause 6 reads as under:

"6. Issue of Licence. - (1) The Licensing Authority shall, on receipt of the application for a licence in prescribed form and on the payment of prescribed licence fee and security deposit, make such inquiry, as it may deem fit, and issue the licence within a period of 45 days from the date of application."

Clause 7 reads as under:

"7. Period of Licence:- Every Licence granted under this Order shall be valid for a period of one year from the date of issue of the licence and may be renewed for a period of two years, at a time."

Clause 8 provides for removal of licence.

Clause 10 reads as under:

"10. Power to refuse licence:- The licensing authority may, after giving the applicant an opportunity of stating his case and for reasons to be recorded in writing to refuse to grant or to renew a licence."

Clause 11 provides for cancellation or suspension of licence, if there is any contravention of the terms and conditions of the licence.

Clause 14 of the said Licensing Order requires every person engaged in the sale or trading of Solvent for any purpose whatsoever to file end use certificates from the consumer to whom the Solvent is sold. The said person is required to furnish on a quarterly basis to the Licensing Authority customer-wise sales of the Solvents. Similarly, any person engaged in the actual use of the Solvent referred to in the Schedule to the Licensing Order for manufacture of any petrochemicals or any other purpose is required, to file end use certificate with the Licensing Authority on a quarterly basis.

3. Having referred to the relevant provisions of licensing order it would now be necessary to narrate the facts: Reliance Petroleum Limited ("RPL" for short) at the relevant time was engaged in the manufacture, sale and

distribution of Petroleum and Petroleum Products including Light Diesel Oil ("LDO" for short) at its refinery in Jamnagar in the State of Gujarat. For the delivery and dispatch to the end users/buyers of the LDO in and around the State of Maharashtra, in or around July, 2001 RPL started bringing LDO from its refinery and stored the same in the containers/tanks situate in or around the Jawaharlal Nehru Port Trust at Nhava Sheva. The storage tank belonged to Indian Oil Tanking Ltd. ("IOTL") a Govt. of India undertaking. The storage of LDO by IOTL was pursuant to an agreement entered into between RPL and IOTL.

4. In terms of clause 3 of the Central Order, RPL by its letter dated 28th July, 2001 applied to the District Magistrate, Raigad District for issue of appropriate licence for storage and sale of LDO to customers and re-sellers for end-use. Along with the said letter, RPL submitted a detailed application form. According to the petitioner along with the said application RPL also enclosed, inter alia, the license issued by the Chief Controller of Explosives in favour of IOTL to import and store petroleum in the licensed premises, and the certificate of registration issued by the Sales Tax Department, under the Bombay Sales Tax Act.

5. Thereafter there was an exchange of several letters between the

petitioner and the authorities. The copies of the said correspondence are annexed to the petition. For better appreciation of the submissions of the parties, it will be necessary to refer to them.

6. It appears that by its letter dated 20th August, 2001, RPL requested the District Magistrate, Raigad District, Alibaug to treat the annual sale throughout referred to in column 10a of the prescribed form as 5,00,000 Mt instead of 5,00,000 KL.

7. By its letter dated 26th December, 2001 RPL submitted to the Tahsildar Uran the details of receipts and issues of LDO for the period between 1st June, 2001 and 30th November, 2001.

8. By a letter dated 27th December, 2001, addressed to the District Supply Officer, Raigad, the Tahsildar of Uran granted his No objection to the issue of licence to RPL under the Licensing Order.

9. By his letter dated 29th December, 2001, the District Supply Officer, Alibaug, District Raigad was requested by RPL to treat the quantity mentioned in the application dated 28th July, 2001 and 20th August, 2001 as

40000 MT per month instead of 5 lacs MT per year.

10. Pursuant to a scheme of amalgamation sanctioned by this Court on 7th June, 2002 and the Gujarat High Court dated 13th September, 2002 RPL was amalgamated with the petitioner with effect from 1st April, 2001. In terms of the said scheme of amalgamation all the assets, liabilities, licenses, permission of the erstwhile RPL stood vested and transferred in favour of the petitioner.

11. By its letter dated 4th April, 2002 the erstwhile RPL requested the Additional Collector, District Raigad for issue of license to store LDO in the tank farm of IMC Ltd. situate at Plot No. 6, JNPT, Sheva, Uran, Navi Mumbai 400 707 in addition to its storage facility of IOTL for which an application for licence had already been made on 28th July, 2001. According to the petitioner by its letter dated 25th June, 2002 and 25th September, 2002 RPL had submitted to the District Magistrate, Alibaug District, Raigad, the following particulars;

"(a) the customer-wise details of the LDO quantity sold during the quarter ended January-March, 2002 and April-June, 2002 from Jawaharlal Nehru Port Trust storage point;

(b) list of customers who have not submitted the end use certificate for the said quarter and

(c) copies of end use certificate received from the customers. Hereto annexed and marked Exhibit-K & L are copies of the said letters dated 25th June, 2002 and 25th September, 2002 respectively."

12. The amalgamation of RPL with the petitioner was communicated to the Additional Collector, District Raigad, by the petitioner by its letter dated 20th November, 2002 and a request was made that the licence be issued in favour of RPL. The Additional Collector was further informed by the RPL that LDO would be stored in storage tank bearing No.T-108 and T-114 at the JNPT Terminal of IMC Ltd.

13. By its letter dated 17th March, 2003, the petitioner informed the Additional Collector that the LDO would be stored at the JNPT Terminal in the storage tank of IMC Ltd. By a further letter dated 27th March, 2003 and 28th June, 2003 the petitioner submitted to the District Magistrate, following details;

"(a) the customer-wise details of the LDO quantity sold during the quarter ended October-December, 2002 and January-March, 2003 from Jawaharlal

Nehru Port Trust storage point;

(b) list of customers who have not submitted the end use certificate for the said quarter and

(c) copies of end use certificate received from the customers.

Hereto annexed and marked Exhibit-O & P are the copies of the said letter dated 27th March, 2003 and 28th June, 2003."

14. By its letter dated 22nd July, 2003, addressed to the Additional Collector, the petitioner enclosed an application form for issue/renewal for storage, sale and use of solvent under the Licensing Order. The application was, however, not considered.

15. It is thus the case of the petitioner that erstwhile RPL and thereafter the petitioner has been following up with the office of the District Collector for issue of licence under the Central Order and the licensing order. According to the petitioner all queries which were verbally raised by the office of the licensing authority had been replied to the satisfaction of the licensing authority. According to the petitioner further the office of the licensing authority had sought the clearance of the Government of Maharashtra for grant of licence under the Central order and the licensing order. The Government of Maharashtra, Department of Food, Civil Supplies and

Consumer Protection, by its letter dated 2nd May, 2002, addressed to the Additional Collector recommended the grant of licence in favour of RPL. The Additional Collector was further advised to periodically procure from RPL end use certificate as required under the Licensing Order after the licence was issued. The grievance of the petitioner is that despite this the licensing authority withheld the issue of licence in favour of the petitioner.

16. It appears that on 5th August, 2003 the Sub-Divisional Officer, Uran seized the LDO of the petitioner which was stored in the tanks of IOTL and IMC Ltd. apparently on the ground that the petitioner had not obtained licence for storing LDO under the licensing order. On the same day the Sub-Divisional Officer filed F.I.R. No. 102/2003 and F.I.R. No. 23/2003 with the Nhava Sheva Police Station and Uran Police Station respectively, inter alia alleging that the petitioner by not obtaining a licence for storage and sale of LDO had contravened the provisions of the said Act and the licensing order. The petitioner has approached this court for quashing of the said F.I.Rs.

17. We have heard at considerable length Mr. Desai, the learned counsel for the petitioner. Mr. Desai contended that in the peculiar facts and circumstances of the case, the complaints in question do not disclose any offence at all. Drawing our attention to the various annexures to the petition

the contents of which we have reproduced with purpose, the learned counsel urged that though it is true that the petitioner did not have a licence for storage, the petitioner had applied for the licence and had taken all the necessary steps in pursuance of the said application. He submitted that not only that all the queries were answered by the petitioner but even the end-use certificates as required by the licensing order were also supplied.

18. The learned counsel drew our attention to clause 6 of the licensing order and contended that as per clause 6 the licensing authority has to, on receipt of the application for a licence in prescribed form and on payment of prescribed licence fee and security deposit make such inquiry, as it may deem fit, and issue the licence within a period of 45 days from the date of application. The learned counsel contended that since the licensing authority had raised no objection with regard to the grant of licence, the licensing authority is deemed to have granted licence for storage and sale of LDO. He submitted that the storage of LDO was well within the knowledge of the licensing authority and this is clearly established from the correspondence to which, we have made detailed reference hereinabove.

19. Mr. Desai submitted that the bonafides of the petitioner are clearly evident from its conduct and its correspondence. The learned counsel further

pointed out that in fact Government of Maharashtra as far back as in May, 2002 recommended to the Additional Collector for grant of licence in favour of the petitioner and in fact subsequently a licence has been granted in favour of the petitioner. All this in the opinion of Mr. Desai indicates that the prosecution initiated by the respondent is frivolous, vexatious and oppressive and in the circumstances deserves to be quashed.

20. In support of his submissions, Mr. Desai placed heavy reliance on Nathulal v. State of Madhya Pradesh, A.I.R. 1966 S.C. 43, Murarilal Jhunjhunwala v. State of Bihar & Ors., 1991 Supp. (2) Supreme Court Cases 647 and a Division Bench decision of this court to which one of us (Smt. Ranjana Desai, J.) is a party decided on 24th October in Writ Petition No. 5611 of 2002 (Kamlakant Singh v. State of Maharashtra) and companion writ petitions being Writ Petition No. 6155 of 2002 and Writ Petition No. 6156 of 2002. The learned counsel also relied on the decision of Rajasthan High Court in Shiker Chand v. State of Rajasthan, 1994 Cri. L.J. 760 and the decision of the Orissa High Court in Rekha Gupta v. Collector, Balasore & Ors., decided by the learned Single Judge of Orissa High Court in O.J.C. No. 6901 of 2001, on 9th October, 2001. As regards quashing of criminal proceedings and inherent powers of the High Court, the learned counsel also relied on State of A.P. v. Golconda Linga Swamy & Anr., (2004) 6 S C C

21. The learned counsel contended that in as much as the complaints disclose no offence and that they are vexatious and oppressive, this court in exercise of its jurisdiction under Article 226 of the Constitution of India should quash the said complaints.

22. We have also heard Ms. Kantharia, learned APP. She has drawn our attention to the affidavit filed by Subhash Dumbre, Additional Collector, Raigad-Alibag in response to the petition. As regards the question whether any offence at all is made out in the complaint, the learned counsel placed heavy reliance on (Kamlakant Singh's case (supra)) (supra). As regards the principles underlying the exercise of powers of quashing of a complaint, the learned counsel relied on State through Special Cell, New Delhi v. Navjot Sandhu alias Afshan Guru & Ors., (2003) 6 S.C.C. 641 and judgment of the Division Bench of this court in Ranjitsing Brahmajeetsing Sharma v. The State of Maharashtra, Criminal Writ Petition No. 3 of 2004 (decided by V. G. Palshikar & P.V.Kakade, JJ.), on 17-2-2004.

23. It is clear from the licensing order which we have quoted hereinabove that clause 3 thereof requires that a person who acquires, stores, sales or uses

Solvent Raffinate and Slop must have a licence. A person who conducts the business of storage, sale and use of these commodities without a licence is liable to be prosecuted under Section 7 of the said Act. It is not the case of the petitioner who is engaged in the manufacturing, sale, distribution of petroleum and petroleum products including LDO that it had a licence at any point of time or that at the relevant time with which we are concerned, it was in possession of a licence. Therefore, if the complaints set out these facts and seek prosecution of the petitioner on that count, it can never be urged that the said complaints do not disclose any offence at all. We are, therefore, unable to quash the said complaints on this ground. The question is whether the complaints could be called oppressive or vexatious.

24. In this connection heavy reliance is placed on Nathulal's case (supra). In that case the Supreme Court was dealing with an appeal. The appellant therein was a dealer in foodgrains. He was prosecuted for having stored wheat for purpose of sale without a licence and for having committed an offence under Section 7 of the said Act. The contention of the appellant was that he had not intentionally contravened the provisions of the said Section. He had stored the said foodgrains after applying for the licence and under a bonafide belief that it was issued to him. The Supreme Court referred to the relevant provisions of law and while dealing with this submission held in the

facts of that case that the appellant stored the goods under the bonafide impression that the licence in regard to which he had made an application was issued to him, though not actually sent to him. The fact that the licensing authority did not communicate to him the rejection of his application confirmed the appellant's belief. The Supreme Court observed that on that belief the appellant proceeded to store the foodgrains by sending the relevant returns to the authority concerned. It was, therefore, a storage of foodgrains within the prescribed limits under a bonafide belief that he could legally do so. He did not, therefore, intentionally contravene the provisions of Section 7 of the said Act. In this view of the matter, the Supreme Court set aside the High Court's Order convicting the appellant.

25. Mr. Desai laid stress on the observation of the Supreme Court that mens rea is an essential ingredient of offences under the said Act. In our opinion the reliance placed by Mr. Desai on this judgment is misplaced. In that case the Supreme Court was dealing with an appeal. The evidence was before it. Whether or not there is mens rea can only be ascertained after the evidence is marshalled. In the present case this Court is concerned with the question of quashing of complaint. It would not be open for us at this stage to examine the material which is in possession of the prosecuting agency to find out whether there is mens rea or not. That can only be decided at the trial. This

court can quash a complaint only if prima facie it does not disclose any offence at all, which is not the case here.

26. Reliance was also placed on Murarilal's case (supra). In that case the appellant was prosecuted for contravention of Section 7 of the said Act for carrying on his business without licence. He approached the High Court for quashing the proceeding. He was successful in his effort. The undisputed facts were that the appellant initially had a licence for carrying on his business upto 1983. On April 19, 1984 the Bihar Trade Articles (Licences Unification) Order, 1984 was brought into force. Consequently the appellant applied for the grant of new licence under the said order, with the payment of licence fees and he was allotted licence No. 100/84. The licensing authority had neither rejected his claim nor pointed out any defects in his application. Bona fide believing that he had not done any illegality the appellant went on every year applying for licence according to law with the payment of licence fees and the authority also went on accepting the applications and the licence fees but did not grant the licence sought for. The appellant was then prosecuted for carrying on his business without licence. The question was whether there was any justification for prosecution. In this context the Supreme Court observed as under:

"Technically, the authorities may be justified in prosecuting the appellant for carrying on the business without obtaining the licence. But the facts of the case reveal that the appellant is not to be blamed. If there is anybody to be blamed in this case it is only the Licensing Authority who has failed to perform its statutory duties. The appellant has done all that he could do under the law. He has not been told at any time that he is required to do anything more than what he has already done. For successive four years the Licensing Authority went on accepting the application for licence with the necessary licence fees, and at no time it denied the claim of the appellant. Its silence seems to demonstrate the total lack of awareness to the rights of the appellant. To cover up its own inaction and lethargic attitude, it seems to have directed the prosecution of the appellant. The attitude of the Licensing Authority is beyond our comprehension. It is arbitrary on the face of it and unjustified on every aspect of it. We fail to understand why the appellant should be prosecuted when he on his part has done everything for obtaining the licence. The appellant was legitimately entitled to the licence which has been unreasonably withheld from him. It would be indeed wrong on the part of the Licensing Authority to prosecute the appellant."

27. Mr. Desai contended that the petitioner's case is identical to the case of the appellant in Murarilal's case (supra). He submitted that assuming that

technically some offence is committed by the petitioner, in the facts of this case it is the licensing authority which has failed to perform its statutory duties. The petitioner has done all that it was required to do under the law and the voluminous correspondence annexed to the petition bears this out. Mr. Desai contended that at no point of time the petitioner was ever informed that something which was expected of the petitioner was not done by the petitioner and hence licence could not be granted to him. In the circumstances the petitioner could not have been prosecuted by the respondents. The learned counsel pointed out that in fact a direction was given by the Supreme Court to the respondent in Murarilal's case (supra) to grant licence to the appellant therein and, therefore, in the light of the said judgment, this court should quash the complaints.

28. In our opinion, the facts in Murarilal's case (supra) materially differ from the facts of the present case. Whereas in Murarilal's case (supra) the appellant therein had a licence and by reason of coming into force of the new order, he applied for licence thereunder, in the present case, admittedly the petitioner had no licence. The petitioner's application is in the nature of first time application. There is sufficient indication in the documents annexed to the petition that the petitioner was all along aware of the fact that the necessary licence was not issued to it. The concept of deemed licence is

absent in the case of licence under the licensing order. In such circumstances the petitioner cannot be heard to say that the petitioner bona fide believed that it had done nothing illegal or that the licence was issued in its favour.

29. In this connection it would also be necessary to have a look at the decision of this Court in Kamlakant Singh's case (supra). In that case the petitions were filed for an order directing the respondent to consider the application made by the petitioners and to issue licence to the petitioners for carrying on Video Games Parlour. Admittedly the petitioners had not obtained licence. The petitioners had applied for licence but the applications had not been disposed of. This court had to consider whether the petitioners would be allowed to continue their business without a licence. In this context this court observed that when the law requires a person to obtain licence before he starts running a Video Games Parlour it is a condition precedent and sine qua non for starting of activity. This court further observed that if an application is made by a person and it has been kept pending for unreasonably long period, it is open to such an applicant to approach this Court by a writ of mandamus or any other appropriate writ, direction or order directing the respondent-authorities to decide the application in accordance with law. If the application is rejected, such a person can approach this Court. But before getting licence or an order

directing the authorities to take a decision one way or the other, the applicant cannot start running of Video Games Parlours. While coming to this conclusion this Court referred to Murarilal's case (supra) and distinguished it on facts. This court noted that in Murarilal's case (supra) the licence was granted to the appellant therein. After coming into force of the new order the appellant applied for grant of new licence and paid licence fees. He was allotted new licence and, therefore, he was under impression that he had valid licence all throughout. In that case prosecutions were not initiated and considering the fact that the applications were pending, a direction was given to the authorities not to prosecute the petitioners till the applications are disposed of. This court, however, clarified that this direction was on the condition that, if the petitioners run the parlour before getting licence, it is open to the respondents to take appropriate action in accordance with law.

30. In our opinion, therefore, it is amply clear that the petitioners herein could not have stored the material in the absence of licence. Murarilal's case (supra) does not help the petitioners. We feel that reliance placed by Mr. Desai on the judgment of the Orissa High Court in Rekha Gupta's case (supra) is also misplaced. In that case the Orissa High Court was considering the validity of a confiscation order. It is in that context that a

reference was made to Murarilal's case (supra). In our opinion, this is not a judgment on the point which is involved in this case.

31. The judgment of the Rajasthan High Court in Shiker Chand's case (supra), will also have to be distinguished from the facts of the present case. In that case the licence was granted on 15/11/1976. Inspection was conducted at the business premises on 9/11/76 and it was found that petitioner was selling foodgrains without licence. In fact the licence was ready in the office but it was not delivered to the petitioner. It is in these circumstances while considering the revision petition filed by the petitioner, the Rajasthan High Court, referred to Murarilal's case (supra) and held that there was no intentional contravention of Section 7 of the Essential Commodities Act. Hence the conviction was set aside. In this case the Rajasthan High Court was considering a situation where after leading evidence the petitioner was convicted. Secondly licence was ready on the day on which the raid was conducted but was not delivered to the petitioner. Such are not the facts here. This judgment is not applicable to the present case.

32. In this case, the correspondence annexed to the petition prima facie indicates that the petitioner could never have been under an impression that

the licence was granted to it. For instance, in its letter dated 20/8/2001 addressed to the District Magistrate, Raigad the petitioner has referred to its earlier application dated 20/7/2001 for issue of licence and stated that the annual sale should be treated as 5,00,000 KL instead of 5,00,000 MT. In its letter dated 29/12/2001 addressed to the office of the District Supply Officer, Alibag it is clarified that the letter pertained to issuance of licence. It is clarified that the quantity be treated as 40,000 MT per month. In its letter dated 4/4/2002 addressed to the Additional Collector, Raigad, the reference is mentioned as application for issue of licence. It is, inter alia, stated in the letter that the petitioner had already applied for licence on 28/7/2001. Certain documents are forwarded with this letter and a request is made to amend the licence to include the storage at M/s. IMC. This indicates that the petitioner had requested that the licence which was to be granted should be amended. In the petitioner's letters dated 25/6/2002 and 25/9/2002 again the subject is shown as application for licence. After the amalgamation of RPL with the petitioner again a letter is sent on 20/11/2002 intimating this fact to the Additional Collector, Alibag. In this letter also, there is a reference to the application for issue of licence. The Additional Collector is requested to consider all the licences in favour of the petitioner with immediate effect and take necessary steps towards the same. In letter dated 27/3/2003, again there is a reference to application for licence. In letters dated 22/3/2003 and

28/6/2003 addressed to the District Magistrate, Alibag, also there is a reference to issue of licence. In view of this, at this stage, we will have to reject the argument of Mr. Desai, the learned counsel appearing for the petitioner that the petitioner bonafide believed that the licence was granted to it. Needless to say that a final conclusion as to whether the petitioner bonafide believed that the licence was granted to it or not could only be drawn after the evidence is led. It is true that the State Government has now granted licence. That, however, cannot absolve the petitioner of the charge of conducting the business without a licence. We certainly cannot lay down a proposition that subsequent grant of licence erases the offence of conducting a business without a licence when requirement of licence is mandatory. We may also mention that though it was open to the petitioner to approach this court and seek a direction to the respondents to consider its application for licence expeditiously, the petitioner has not chosen to do so. In the circumstances of this case, therefore, it is not possible for us to quash the FIRs in question. The petition is, therefore, liable to be rejected and is rejected as such. We, however, make it clear that any observations made by us on the merits of the case are only prima facie observations and they should not weigh with the trial court while dealing with the complaints.

33. At this stage, Mr. Desai, the learned counsel appearing for the petitioner

requests that the interim relief granted by this court on 30/9/2003 be continued for a period of 11 weeks to enable the petitioner to approach the Supreme Court. Ms. Kantharia, the learned A.P.P. objects to such an order. In the facts and circumstances of the case, we direct that the interim relief granted by this court on 30/9/2003 shall continue for a period of eight weeks from today.

34. Certified copy expedited.

(SMT. RANJANA DESAI, J.)

(A. S. OKA, J.)